HOUSE BILL NO. 2129

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources

on _____)

(Patron Prior to Substitute--Delegate Lopez)

A BILL to amend and reenact §§ 10.1-1186.01, 62.1-44.19:13, and 62.1-44.19:14 of the Code of Virginia, relating to Chesapeake Bay Phase III Watershed Improvement Plan; nutrient removal; regulations.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1186.01, 62.1-44.19:13, and 62.1-44.19:14 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-1186.01. Reimbursements to localities for upgrades to treatment works.

A. As used in this section, "Enhanced Nutrient Removal Certainty Program" or "ENRC Program" means the same as that term is defined in § 62.1-44.19:13.

B. The General Assembly shall fund grants to finance the reasonable costs of design and installation of nutrient removal technology at the publicly owned treatment works designated as significant dischargers contained in subsection ~~E,~~ F or as eligible nonsignificant dischargers as defined in § 10.1-2117. ~~Notwithstanding § 10.1-2128, at such time as~~ When grant disbursements pursuant to this section reach ~~200 percent of the appropriations provided for in Chapter 951 of the Acts of Assembly of 2005 and Chapter 10 of the Acts of Assembly of 2006, Special Session I~~ a sum sufficient to fund the completion of the ENRC Program at all publicly owned treatment works, the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Finance and Appropriations shall review (i) the future funding needs to meet the purposes of the Water Quality Improvement Act, (ii) the most recent annual needs estimate required by § 10.1-2134.1, and (iii) the appropriate funding mechanism for such needs.

~~B.~~ C. The disbursement of grants for the design and installation of nutrient removal technology at those publicly owned treatment works included in subsection ~~E~~ F and eligible nonsignificant dischargers shall be made monthly based on a requisition submitted by the grant recipient in the form requested by the Department. Each requisition shall include written certification that the applicable local share of the cost of nutrient removal technology for that portion of the project covered by such requisition has been incurred or expended. Except as may otherwise be approved by the Department, disbursements shall not exceed 95 percent of the total grant amount until satisfactory completion of the project. The distribution of the grants shall be effected by one of the following methods:

1. In payments to be paid by the State Treasurer out of funds appropriated to the Water Quality Improvement Fund pursuant to § 10.1-2131;

2. Over a specified time through a contractual agreement entered into by the Treasury Board and approved by the Governor, on behalf of the Commonwealth, and the locality or public service authority undertaking the design and installation of nutrient removal technology, such payments to be paid by the State Treasurer out of funds appropriated to the Treasury Board; or

3. In payments to be paid by the State Treasurer upon request of the Director ~~of Environmental Quality~~ out of proceeds from bonds issued by the Virginia Public Building Authority, in consultation with the Department ~~of Environmental Quality~~, pursuant to §§ 2.2-2261, 2.2-2263, and 2.2-2264, including the Commonwealth's share of the interest costs expended by the locality or regional authority for financing such project during the period from ~~50%~~ 50 percent completion of construction to final completion of construction.

~~C.~~ D. The General Assembly ~~shall have~~ has the sole authority to determine whether disbursement ~~will~~ shall be made pursuant to subdivision ~~B~~ C 1, ~~B~~ 2, or ~~B~~ 3, or a combination thereof~~;~~, provided that a disbursement shall ~~only~~ be made pursuant to subdivision ~~B~~ C 3 only upon a certification by the Department ~~of Environmental Quality~~ that project grant reimbursements for the fiscal year will exceed the available funds in the Water Quality Improvement Fund.

~~D.~~ E. Exclusive of any deposits made pursuant to § 10.1-2128, the grants awarded pursuant to this section shall include such appropriations as provided ~~for in Chapter 951 of the Acts of Assembly of 2005;~~

~~and Chapter 10 of the Acts of Assembly of 2006, Special Session I~~ from time to time in the appropriation act or any amendments thereto.

~~E.~~ F. The disbursement of grants to finance the costs of design and installation of nutrient removal technology, including eligible design and installation costs for implementation of the ENRC Program, at the following ~~89~~ listed publicly owned treatment works and other eligible nonsignificant dischargers shall be provided pursuant to the distribution methodology included in § 10.1-2131. ~~However, in~~ The notation "WIP3-N" or "WIP3-P" indicates that a facility is subject to additional requirements for total nitrogen or total phosphorus, respectively, under the ENRC Program. In no case shall any publicly owned treatment works receive a grant of less than ~~35%~~ 35 percent of the costs of the design and installation of nutrient removal technology.

a	FACILITY NAME	OWNER
b	Shenandoah - Potomac River Basin	
c	ACSA-Fishersville STP	Augusta County Service Authority
d	Luray STP	Town of Luray
e	ACSA-Middle River Regional STP	Augusta County Service Authority
f	HRRSA-North River WWTF WIP3-P	Harrisonburg-Rockingham Regional Sewer Authority
g	ACSA-Stuarts Draft STP	Augusta County Service Authority
h	Waynesboro STP	City of Waynesboro
i	ACSA-Weyers Cave STP	Augusta County Service Authority
j	Berryville STP	Town of Berryville
k	Front Royal STP	Town of Front Royal
l	Mount Jackson STP	Town of Mount Jackson
m	New Market STP	Town of New Market
n	Shenandoah Co.-North Fork Regional WWTP	Shenandoah County

o	Stoney Creek Sanitary District STP	Stoney Creek Sanitary District
p	Strasburg STP	Town of Strasburg
q	Woodstock STP	Town of Woodstock
r	FWSA-Opequon Water Reclamation Facility	Frederick-Winchester Service Authority
s	FWSA-Parkins Mill WWTF	Frederick-Winchester Service Authority
t	Purcellville-Basham Simms WWTF	Town of Purcellville
u	LCSA-Broad Run WRF	Loudoun County Service Authority
v	Leesburg WPCF	Town of Leesburg
w	Round Hill WWTP	Town of Round Hill
x	PWCSA-H.L. Mooney WWTF	Prince William County Service Authority
y	Upper Occoquan Sewage Authority WWTP	Upper Occoquan Sewage Authority
z	FCW&SA-Vint Hill WWTF	Fauquier County Water and Sewer Authority
aa	Alexandria Sanitation Authority WWTP	Alexandria Sanitation Authority
ab	Arlington Co. WPCF	Arlington County
ac	Fairfax Co. - Noman-Cole Pollution Control Facility	Fairfax County
ad	Stafford Co.-Aquia WWTP	Stafford County
ae	Colonial Beach STP	Town of Colonial Beach
af	Dahlgren Sanitary District WWTP	King George County Service Authority
ag	Fairview Beach STP	King George County Service Authority
ah	Purkins Corner WWTP	King George County Service Authority

ai	District of Columbia - Blue Plains STP (Virginia portion)	Loudoun County Service Authority and Fairfax County contract for capacity
aj	Rappahannock River Basin	
ak	Culpeper WWTP	Town of Culpeper
al	Marshall WWTP	Town of Marshall
am	Mountain Run WWTP	Culpeper County
an	Orange STP	Town of Orange
ao	Rapidan STP	Rapidan Service Authority
ap	FCW&SA-Remington WWTP	Fauquier County Water and Sewer Authority
aq	Warrenton STP	Town of Warrenton
ar	Wilderness Shores WWTP	Rapidan Service Authority
as	Spotsylvania Co.-FMC WWTF WIP3-N, WIP3-P	Spotsylvania County
at	Fredericksburg WWTF	City of Fredericksburg
au	Stafford Co.-Little Falls Run WWTF	Stafford County
av	Spotsylvania Co.-Massaponax WWTF WIP3-N, WIP3-P	Spotsylvania County
aw	Montross-Westmoreland WWTP	Westmoreland County
ax	Oakland Park STP	King George County Service Authority
ay	Tappahannock WWTP	Town of Tappahannock
az	Urbanna WWTP	Hampton Roads Sanitation District
ba	Warsaw STP	Town of Warsaw
bb	Reedville Sanitary District WWTP	Reedville Sanitary District
bc	Kilmarnock WWTP	Town of Kilmarnock

bd	York River Basin	
be	Caroline Co. Regional STP	Caroline County
bf	Gordonsville STP	Rapidan Service Authority
bg	Ashland WWTP	Hanover County
bh	Doswell WWTP	Hanover County
bi	HRSD-York River STP WIP3-N	Hampton Roads Sanitation District
bj	Parham Landing WWTP	New Kent County
bk	Totopotomoy WWTP	Hanover County
bl	HRSD-West Point STP	Hampton Roads Sanitation District
bm	HRSD-Mathews Courthouse STP	Hampton Roads Sanitation District
bn	Spotsylvania Co.-Thornburg STP WIP3-N, WIP3-P	Spotsylvania County
bo	James River Basin	
bp	Buena Vista STP	City of Buena Vista
bq	~~Clifton Forge STP~~	~~Town of Clifton Forge~~
br	Covington STP	City of Covington
bs	Lexington-Rockbridge Regional WQCF	Maury Service Authority
bt	Alleghany Co.-Low Moor STP	Alleghany County
bu	Alleghany Co.-Lower Jackson River WWTP	Alleghany County
bv	Amherst-Rutledge Creek WWTP	Town of Amherst
bw	Lynchburg STP	City of Lynchburg
bx	RWSA-Moores Creek Regional STP	Rivanna Water and Sewer Authority
by	Crewe WWTP	Town of Crewe
bz	Farmville WWTP	Town of Farmville
ca	Chesterfield Co.-Falling Creek WWTP	Chesterfield County

cb	Henrico Co. WWTP	Henrico County
cc	Hopewell Regional WWTF	City of Hopewell
cd	Chesterfield Co.-Proctors Creek WWTP	Chesterfield County
ce	Richmond WWTP	City of Richmond
cf	South Central Wastewater Authority WWTF WIP3-N, WIP3-P	South Central Wastewater Authority
cg	~~Chickahominy WWTP~~	~~New Kent County~~
ch	HRSD-Boat Harbor STP WIP3-N, WIP3-P	Hampton Roads Sanitation District
ci	HRSD-James River STP WIP3-N, WIP3-P	Hampton Roads Sanitation District
cj	HRSD-Williamsburg STP WIP3-N, WIP3-P	Hampton Roads Sanitation District
ck	HRSD-Nansemond STP WIP3-N, WIP3-P	Hampton Roads Sanitation District
cl	HRSD-Army Base STP WIP3-N, WIP3-P	Hampton Roads Sanitation District
cm	HRSD-Virginia Initiative Plant STP WIP3-N, WIP3-P	Hampton Roads Sanitation District
cn	HRSD-Chesapeake/Elizabeth STP WIP3-N, WIP3-P	Hampton Roads Sanitation District
co	Eastern Shore Basin	
cp	Cape Charles WWTP	Town of Cape Charles
cq	Onancock WWTP	Town of Onancock
cr	Tangier Island WWTP	Town of Tangier

~~F.~~ G. To the extent that any publicly owned treatment works receives less than the grant specified pursuant to § 10.1-2131, any year-end revenue surplus or unappropriated balances deposited in the Water Quality Improvement Fund, as required by § 10.1-2128, shall be prioritized in order to augment the funding of those projects for which grants have been prorated. Any additional reimbursements to these prorated projects shall not exceed the total reimbursement amount due pursuant to the formula established in subsection E of § 10.1-2131.

~~G.~~ H. Notwithstanding the provisions of subsection B of § 10.1-2131, the Director ~~of the Department of Environmental Quality~~ shall not be required to enter into a grant agreement with a facility designated as a significant discharger or eligible nonsignificant discharger if the Director determines that the use of nutrient credits in accordance with the Chesapeake Bay Watershed Nutrient Credit Exchange Program (§ 62.1-44.19:12 et seq.) would be significantly more cost-effective than the installation of nutrient controls for the facility in question.

§ 62.1-44.19:13. Definitions.

As used in this article, unless the context requires a different meaning:

"Annual mass load of total nitrogen" (expressed in pounds per year) means the daily total nitrogen concentration (expressed as mg/L to the nearest 0.01 mg/L) multiplied by the flow volume of effluent discharged during the 24-hour period (expressed as MGD to the nearest 0.01 MGD), multiplied by 8.34 and rounded to the nearest whole number to convert to pounds per day (lbs/day) units, then totaled for the calendar month to convert to pounds per month (lbs/mo) units, and then totaled for the calendar year to convert to pounds per year (lbs/yr) units.

"Annual mass load of total phosphorus" (expressed in pounds per year) means the daily total phosphorus concentration (expressed as mg/L to the nearest 0.01mg/L) multiplied by the flow volume of effluent discharged during the 24-hour period (expressed as MGD to the nearest 0.01 MGD) multiplied by 8.34 and rounded to the nearest whole number to convert to pounds per day (lbs/day) units, then totaled for the calendar month to convert to pounds per month (lbs/mo) units, and then totaled for the calendar year to convert to pounds per year (lbs/yr) units.

"Association" means the Virginia Nutrient Credit Exchange Association authorized by this article.

"Attenuation" means the rate at which nutrients are reduced through natural processes during transport in water.

"Best management practice," "practice," or "BMP" means a structural practice, nonstructural practice, or other management practice used to prevent or reduce nutrient loads associated with stormwater from reaching surface waters or the adverse effects thereof.

"Biological nutrient removal technology" means (i) technology that will achieve an annual average total nitrogen effluent concentration of eight milligrams per liter and an annual average total phosphorus effluent concentration of one milligram per liter, or (ii) equivalent reductions in loads of total nitrogen and total phosphorus through the recycle or reuse of wastewater as determined by the Department.

"Delivered total nitrogen load" means the discharged mass load of total nitrogen from a point source that is adjusted by the delivery factor for that point source.

"Delivered total phosphorus load" means the discharged mass load of total phosphorus from a point source that is adjusted by the delivery factor for that point source.

"Delivery factor" means an estimate of the number of pounds of total nitrogen or total phosphorus delivered to tidal waters for every pound discharged from a permitted facility, as determined by the specific geographic location of the permitted facility, to account for attenuation that occurs during riverine transport between the permitted facility and tidal waters. Delivery factors shall be calculated using the Chesapeake Bay Program watershed model.

"Department" means the Department of Environmental Quality.

"Enhanced Nutrient Removal Certainty Program" or "ENRC Program" means the Phase III Watershed Implementation Plan Enhanced Nutrient Removal Certainty Program established pursuant to subsection G of § 62.1-44.19:14.

"Equivalent load" means 2,300 pounds per year of total nitrogen and 300 pounds per year of total phosphorus at a flow volume of 40,000 gallons per day; 5,700 pounds per year of total nitrogen and 760 pounds per year of total phosphorus at a flow volume of 100,000 gallons per day; and 28,500 pounds per year of total nitrogen and 3,800 pounds per year of total phosphorus at a flow volume of 500,000 gallons per day.

"Facility" means a point source discharging or proposing to discharge total nitrogen or total phosphorus to the Chesapeake Bay or its tributaries. This term does not include confined animal feeding operations, discharges of stormwater, return flows from irrigated agriculture, or vessels.

"General permit" means the general permit authorized by this article.

"MS4" means a municipal separate storm sewer system.

"Nutrient credit" or "credit" means a nutrient reduction that is certified pursuant to this article and expressed in pounds of phosphorus or nitrogen either (i) delivered to tidal waters when the credit is generated within the Chesapeake Bay Watershed or (ii) as otherwise specified when generated in the Southern Rivers watersheds. "Nutrient credit" does not include point source nitrogen credits or point source phosphorus credits as defined in this section.

"Nutrient credit-generating entity" means an entity that generates nonpoint source nutrient credits.

"Permitted facility" means a facility authorized by the general permit to discharge total nitrogen or total phosphorus. For the sole purpose of generating point source nitrogen credits or point source phosphorus credits, "permitted facility" shall also mean the Blue Plains wastewater treatment facility operated by the District of Columbia Water and Sewer Authority.

"Permittee" means a person authorized by the general permit to discharge total nitrogen or total phosphorus.

"Point source nitrogen credit" means the difference between (i) the waste load allocation for a permitted facility specified as an annual mass load of total nitrogen, and (ii) the monitored annual mass load of total nitrogen discharged by that facility, where clause (ii) is less than clause (i), and where the difference is adjusted by the applicable delivery factor and expressed as pounds per year of delivered total nitrogen load.

"Point source phosphorus credit" means the difference between (i) the waste load allocation for a permitted facility specified as an annual mass load of total phosphorus, and (ii) the monitored annual mass load of total phosphorus discharged by that facility, where clause (ii) is less than clause (i), and where the difference is adjusted by the applicable delivery factor and expressed as pounds per year of delivered total phosphorus load.

"State-of-the-art nutrient removal technology" means (i) technology that will achieve an annual average total nitrogen effluent concentration of three milligrams per liter and an annual average total phosphorus effluent concentration of 0.3 milligrams per liter, or (ii) equivalent load reductions in total nitrogen and total phosphorus through recycle or reuse of wastewater as determined by the Department.

"Tributaries" means those river basins listed in the Chesapeake Bay TMDL and includes the Potomac, Rappahannock, York, and James River Basins, and the Eastern Shore, which encompasses the creeks and rivers of the Eastern Shore of Virginia that are west of Route 13 and drain into the Chesapeake Bay.

"Waste load allocation" means (i) the water quality-based annual mass load of total nitrogen or annual mass load of total phosphorus allocated to individual facilities pursuant to the Water Quality Management Planning Regulation (9VAC25-720) or its successor, or permitted capacity in the case of nonsignificant dischargers; (ii) the water quality-based annual mass load of total nitrogen or annual mass load of total phosphorus acquired pursuant to § 62.1-44.19:15 for new or expanded facilities; or (iii) applicable total nitrogen or total phosphorus waste load allocations under the Chesapeake Bay total maximum daily loads (TMDLs) to restore or protect the water quality and beneficial uses of the Chesapeake Bay or its tidal tributaries.

§ 62.1-44.19:14. Watershed general permit for nutrients.

A. ~~By January 1, 2006, or as soon thereafter as possible, the~~ The Board shall issue a Watershed General Virginia Pollutant Discharge Elimination System Permit, hereafter referred to as the general permit, authorizing point source discharges of total nitrogen and total phosphorus to the waters of the Chesapeake Bay and its tributaries. Except as otherwise provided in this article, the general permit shall control in lieu of technology-based, water quality-based, and best professional judgment, interim or final effluent limitations for total nitrogen and total phosphorus in individual Virginia Pollutant Discharge Elimination System permits for facilities covered by the general permit where the effluent limitations for total nitrogen and total phosphorus in the individual permits are based upon standards, criteria, waste load allocations, policy, or guidance established to restore or protect the water quality and beneficial uses of the Chesapeake Bay or its tidal tributaries.

B. This section shall not be construed to limit or otherwise affect the Board's authority to establish and enforce more stringent water quality-based effluent limitations for total nitrogen or total phosphorus in individual permits where those limitations are necessary to protect local water quality. The exchange or acquisition of credits pursuant to this article shall not affect any requirement to comply with such local water quality-based limitations.

C. The general permit shall contain the following:

1. Waste load allocations for total nitrogen and total phosphorus for each permitted facility expressed as annual mass loads, including reduced waste load allocations where applicable under the ENRC Program. The allocations for each permitted facility shall reflect the applicable individual water quality-based total nitrogen and total phosphorus waste load allocations. An owner or operator of two or more facilities located in the same tributary may apply for and receive an aggregated waste load allocation for total nitrogen and an aggregated waste load allocation for total phosphorus for multiple facilities reflecting the total of the water quality-based total nitrogen and total phosphorus waste load allocations established for such facilities individually;

2. A schedule requiring compliance with the combined waste load allocations for each tributary as soon as possible taking into account (i) opportunities to minimize costs to the public or facility owners by phasing in the implementation of multiple projects; (ii) the availability of required services and skilled labor; (iii) the availability of funding from the Virginia Water Quality Improvement Fund as established in § 10.1-2128, the Virginia Water Facilities Revolving Fund as established in § 62.1-225, and other financing mechanisms; (iv) water quality conditions; and (v) other relevant factors. Following receipt of the compliance plans required by subdivision C 3, the Board shall reevaluate the schedule taking into account the information in the compliance plans and the factors in this subdivision, and may modify the schedule as appropriate;

3. A requirement that ~~within nine months after the initial effective date of the general permit,~~ the permittees shall either individually or through the Association submit compliance plans to the Department for approval. The compliance plans shall contain, at a minimum, any capital projects and implementation schedules needed to achieve total nitrogen and phosphorus reductions sufficient to comply with the

individual and combined waste load allocations of all the permittees in the tributary. The compliance plans may rely on the exchange of point source credits in accordance with this article, but not the acquisition of credits through payments authorized by § 62.1-44.19:18, to achieve compliance with the individual and combined waste load allocations in each tributary. The compliance plans shall be updated annually and submitted to the Department no later than February 1 of each year. The compliance plans due beginning February 1, 2023, shall address the requirements of the ENRC Program;

4. Such monitoring and reporting requirements as the Board deems necessary to carry out the provisions of this article;

5. A procedure that requires every owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit to discharge 100,000 gallons or more per day, or an equivalent load, directly into tidal waters, or 500,000 gallons or more per day, or an equivalent load, directly into nontidal waters, to secure general permit coverage by filing a registration statement with the Department within a specified period after each effective date of the general permit. The procedure shall also require any owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit to discharge 40,000 gallons or more per day, or an equivalent load, directly into tidal or nontidal waters to secure general permit coverage by filing a registration statement with the Department at the time he makes application with the Department for a new discharge or expansion that is subject to an offset or technology-based requirement in § 62.1-44.19:15, and thereafter within a specified period of time after each effective date of the general permit. The procedure shall also require any owner or operator of a facility with a discharge that is subject to an offset requirement in subdivision A 5 of § 62.1-44.19:15 to secure general permit coverage by filing a registration statement with the Department prior to commencing the discharge and thereafter within a specified period of time after each effective date of the general permit. The general permit shall provide that any facility authorized by a Virginia Pollutant Discharge Elimination System permit and not required by this subdivision to file a registration statement shall be deemed to be covered under the general permit at the time it is issued, and shall file a registration statement with the Department when required by this section. Owners or operators of facilities that are deemed to be permitted under this

section shall have no other obligation under the general permit prior to filing a registration statement and securing coverage under the general permit based upon such registration statement;

6. A procedure for efficiently modifying the lists of facilities covered by the general permit where the modification does not change or otherwise alter any waste load allocation or delivery factor adopted pursuant to the Water Quality Management Planning Regulation (9VAC25-720) or its successor, or an applicable total maximum daily load. The procedure shall also provide for modifying or incorporating new waste load allocations or delivery factors, including the opportunity for public notice and comment on such modifications or incorporations; and

7. Such other conditions as the Board deems necessary to carry out the provisions of this chapter and Section 402 of the federal Clean Water Act (33 U.S.C. § 1342).

D. 1. The Board shall (i) review during the year 2020 and every 10 years thereafter the basis for allocations granted in the Water Quality Management Planning Regulation (9VAC25-720) and (ii) as a result of such decennial reviews propose for inclusion in the Water Quality Management Planning Regulation (9VAC25-720) either the reallocation of unneeded allocations to other facilities registered under the general permit or the reservation of such allocations for future use.

2. For each decennial review, the Board shall determine whether a permitted facility has:

a. Changed the use of the facility in such a way as to make discharges unnecessary, ceased the discharge of nutrients, and become unlikely to resume such discharges in the foreseeable future; or

b. Changed the production processes employed in the facility in such a way as to render impossible, or significantly to diminish the likelihood of, the resumption of previous nutrient discharges.

3. Beginning in 2030, each review also shall consider the following factors for municipal wastewater facilities:

a. Substantial changes in the size or population of a service area;

b. Significant changes in land use resulting from adopted changes to zoning ordinances or comprehensive plans within a service area;

c. Significant establishment of conservation easements or other perpetual instruments that are associated with a deed and that restrict growth or development;

d. Constructed treatment facility capacity;

e. Significant changes in the understanding of the water chemistry or biology of receiving waters that would reasonably result in unused nutrient discharge allocations over an extended period of time;

f. Significant changes in treatment technologies that would reasonably result in unused nutrient discharge allocations over an extended period of time;

g. The ability of the permitted facility to accommodate projected growth under existing nutrient waste load allocations; and

h. Other similarly significant factors that the Board determines reasonably to affect the allocations granted.

The Board shall not reduce allocations based solely on voluntary improvements in nutrient removal technology.

E. The Board shall maintain and make available to the public a current listing, by tributary, of all permittees and permitted facilities under the general permit, together with each permitted facility's total nitrogen and total phosphorus waste load allocations, and total nitrogen and total phosphorus delivery factors.

F. Except as otherwise provided in this article, in the event that there are conflicting or duplicative conditions contained in the general permit and an individual Virginia Pollutant Discharge Elimination System permit, the conditions in the general permit shall control.

G. The Board shall adopt amendments to the Water Quality Management Planning Regulation and modifications to Virginia Pollutant Discharge Elimination System permits or registration lists to establish and implement the Phase III Watershed Implementation Plan Enhanced Nutrient Removal Certainty Program (ENRC Program) as provided in this subsection. The ENRC Program shall consist of the following projects and the following waste load allocation reductions and their respective schedules for compliance.

1. Priority projects for additional nitrogen and phosphorus removal (schedule for compliance):

a	PROJECT NAME	DESCRIPTION (COMPLIANCE SCHEDULE)

b	HRSD-Chesapeake/Elizabeth STP	Consolidate into regional system and close treatment facility (1/1/2023)
c	HRSD-Boat Harbor WWTP	Convey by subaqueous crossing to Nansemond River WWTP for nutrient removal (1/1/2026)
d	HRSD-Nansemond River WWTP	Upgrade and expand with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
e	HRSD-Nassawadox WWTP	Convey to regional system for nutrient removal (1/1/2026)
f	Spotsylvania Co.-FMC WWTF	Convey to Massaponax WWTF and close treatment facility (1/1/2026)
g	Spotsylvania Co.-Massaponax WWTF	Expand with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus to consolidate and close FMC WWTF (1/1/2026)
h	Spotsylvania Co.-Thornburg STP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus (1/1/2026)
i	HRRSA-North River WWTP	Phosphorus removal tertiary filtration upgrade (1/1/2026)
j	South Central Wastewater Authority WWTF	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus (1/1/2026)

k	HRSD-Williamsburg WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
l	HRSD-VIP WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
m	HRSD-James River WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2028)
n	HRSD-Army Base WWTP	Convey to VIP WWTP for nutrient removal (1/1/2032) or upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)

Each priority project and the associated schedule of compliance shall be incorporated into the applicable Virginia Pollutant Discharge Elimination System permit or registration list. Each priority project facility shall be in compliance by complying with applicable annual average total nitrogen and total phosphorus concentrations for compliance years 2026, 2028, and 2032 or, only for a facility subject to an aggregated waste load allocation, by exercising the option of achieving an equivalent discharged load by the date set out in the schedule of compliance based on the applicable total nitrogen and total phosphorus annual average concentrations and actual annual flow treated without the acquisition and use of point source credits generated by permitted facilities not under common ownership. Noncompliance shall be enforceable in the same manner as any other condition of a Virginia Pollutant Discharge Elimination System permit.

2. Nitrogen waste load allocation reductions – HRSD-York River WWTP:

Reduce the total nitrogen waste load allocation for the HRSD-York River WWTP to 228,444 lbs/year effective January 1, 2026.

3. James River HRSD SWIFT nutrient upgrades:

Reduce total nitrogen waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2026:

	FACILITY NAME	TOTAL NITROGEN WASTELOAD ALLOCATION (lbs/year)
b	HRSD-Army Base WWTP	219,307
c	HRSD-Boat Harbor STP	304,593
d	HRSD-James River STP	243,674
e	HRSD-VIP WWTP	487,348
f	HRSD-Nansemond STP	365,511
g	HRSD-Williamsburg STP	274,133

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2026:

	FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)
b	HRSD-Army Base WWTP	27,413
c	HRSD-Boat Harbor STP	38,074
d	HRSD-James River STP	30,459
e	HRSD-VIP WWTP	60,919
f	HRSD-Nansemond STP	45,689
g	HRSD-Williamsburg STP	34,267

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2030:

	FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)
b	HRSD-Army Base WWTP	21,931

c	HRSD-Boat Harbor STP	30,459
d	HRSD-James River STP	24,367
e	HRSD-VIP WWTP	48,735
f	HRSD-Nansemond STP	36,551
g	HRSD-Williamsburg STP	27,413

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2032:

	FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)
b	HRSD-Army Base WWTP	16,448
c	HRSD-Boat Harbor STP	22,844
d	HRSD-James River STP	18,276
e	HRSD-VIP WWTP	36,551
f	HRSD-Nansemond STP	27,413
g	HRSD-Williamsburg STP	20,560

Transfer the total nitrogen (454,596 lbs/year) and total phosphorus (41,450 lbs/year) waste load allocations for the HRSD-Chesapeake/Elizabeth STP to the Nutrient Offset Fund effective January 1, 2026.

Transfer the total nitrogen (153,500 lbs/yr) and total phosphorous (17,437 lbs/yr) waste load allocations for the HRSD-J.H. Miles Facility consolidation to HRSD in accordance with the approved registration list December 21, 2015, transfer.

2. That the Enhanced Nutrient Removal Certainty Program as established in subdivisions G 1, 2, and 3 of § 62.1-44.19:14 of the Code of Virginia, as amended by this act, shall be deemed to implement through January 1, 2026, the Commonwealth's Chesapeake Bay Phase III Watershed Implementation Plan in lieu of the floating waste load allocation concept proposed in Initiative 52 of the Commonwealth's Chesapeake Bay Phase III Watershed Implementation Plan. However,

nothing in this act shall be construed to limit the State Water Control Board's authority to impose (i) additional requirements or modifications to phosphorous waste load allocations necessary to achieve compliance with the numeric chlorophyll-a criteria applicable to the James River; (ii) requirements or modifications to waste load allocations necessary to comply with changes to federal law that become effective after January 1, 2021; or (iii) requirements or modifications to waste load allocations necessary to comply with a court order issued after January 1, 2021.

3. That the State Water Control Board shall modify the Virginia Pollutant Discharge Elimination System (VPDES) permits for the facilities listed in subdivision G 1 of § 62.1-44.19:14 of the Code of Virginia, as amended by this act, to include any requirements and compliance schedules established in this act.

4. That if the Secretary of Natural Resources (the Secretary) determines on or after July 1, 2026, that the Commonwealth has not achieved, or in the event of increased nutrient loads associated with climate change will not be able to maintain, its nitrogen pollution reduction commitments in the Chesapeake Bay Total Maximum Daily Load (TMDL) Phase III Watershed Implementation Plan, the Secretary may develop an additional watershed implementation plan or plans pursuant to § 2.2-218 of the Code of Virginia. Any such plan shall take into consideration the progress made by all point and nonpoint sources toward meeting applicable load and waste load allocations, the best available science and water quality modeling, and any applicable U.S. Environmental Protection Agency guidance for Chesapeake Bay TMDL implementation. In any such plan, the Secretary may include as priority projects upgrades with nutrient removal technology of 4.0 mg/L annual average total nitrogen concentration at municipal wastewater treatment facilities with a design capacity greater than 10.0 MGD discharging to James River Segment JMSTF2 so long as (i) the scheduled date for compliance is January 1, 2036; (ii) notwithstanding the wasteload allocations specified in clause (iii), compliance requires operating the nutrient removal technology to achieve an annual average total nitrogen concentration of less than or equal to 4.0 mg/L or, until such time as the facility is upgraded to achieve such concentration, the option of achieving an equivalent discharged load based on an annual average total nitrogen concentration of 4.0 mg/L and actual annual flow

treated, including the use of point source nitrogen credits; and (iii) the facilities have and retain the following total nitrogen waste load allocations: Falling Creek WWTP (182,738 lbs/year), Proctors Creek WWTP (411,151 lbs/year and, in the event that Proctors Creek WWTP is expanded in accordance with 9VAC25-40-70 and Falling Creek WWTP is upgraded to achieve 4.0 mg/L, 493,391 lbs/year), and Henrico County WWTP (1,142,085 lbs/year). If the Secretary opts to include such facilities in the plan, the State Water Control Board shall include the foregoing concentrations limits, waste load allocations, and schedules for compliance in the Water Quality Management Planning Regulation, the Watershed General Virginia Pollutant Discharge Elimination System permit, and individual VPDES permits, as applicable.

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